

Misc- 16/2022
CIS- 8/2022

20/07/2023:

Today is fixed for hearing of application for interim maintenance filed by the petitioner.

Both parties filed hazira.

Heard Ld. Advocate for both the parties in respect of application u/s 23 of P.W.D.V Act.

Considered.

Now the case record is taken up for passing order.

This order disposes of an application under section 23 of Protection of Women from Domestic Violence Act filed by Anita Hansda praying for maintenance of Rs. 12,000/- per month for herself and Rs. 30,000/- as compensation as well as protection from domestic violence from the respondent No. 1 Kanudeb Saren.

This case has been filed by the petitioner Anita Hansda who was married to Kanudeb Saren on 14/08/99 under special marriage act. In the wed lock she gave birth to 2 male children. Since few months of marriage, respondent No. 1 in connivance with respondent No. 2 started inflicting mental and physical torture upon the petitioner by forcing her to ask her father for dowry. Respondents assaulted her with fist and blow. Respondent No. 1 also used to burn parts of her body by cigarette butts. Petitioner also states that respondent No. 1 was of pervert mentality and subjected her to sexual torture as well. The respondent No. 1 also used to tale away the petty income of the petitioner and finally on 20/04/2022 ,the respondents drove out the petitioner from her matrimonial house after assaulting her inhumanly. Claiming herself to be ICDS worker with income of Rs.8,000/- per month and respondent No. 1 to be a government high school employee with income of Rs.35,000/- per month, she prays for monthly maintenance of Rs.12,000/- from the Respondent No. 1 and compensation of Rs.30,000/-.

Respondents by filing a written objection where he denied all material allegations and stated that the petitioner was never subjected to any physical or mental torture. He further states that since marriage ,petitioner did not take care of the respondent No. 1 and even after birth of her 2 children,she also was reluctant to take care of them as well. She also started developing extra marital affair with 1 Samar Hansda and whenever the respondent No. 1 raised protest , the petitioner even assaulted and abused him. Respondent No. 1 also submits that since she got employed as ICDS worker ,she started forcing the respondent No. 1 to give divorce and often used to go to her father's house without informing the respondent No. 1. He finally submits that the petitioner left her matrimonial house on her own accord. Claiming himself to be shouldering responsibility of his whole family, respondent No. 1 prays for rejection of the application.

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At the time of hearing, Ld. Advocate for the respondent No. 1 filed a photocopy of release order in the name of the Respondent No. 1. Ld. Advocate for the petitioner did not file any document in support of his contentions.

The petition and the written objection has elaborated allegations and counter allegations which are subject to proof by oral or other documentary evidence. At this stage, on perusal of the materials on record it is found that DIR has been filed which to some extent complements the statement made by the petitioner. This court also perused the declaration on the affidavit of assets and liabilities of both the parties to this case. Be that as it may the admitted position is that petitioner is the wife of respondent no. 1 and so she is entitled to get protection from any mental and physical torture. From the materials on record it is found that the respondent is an employee of Government High School in respect of which the petitioner claims his income to be Rs. 35,000/- per month whereas Respondent No. 1 has not specified his income and has mentioned the responsibilities. However the photocopy which has been submitted by Ld. Advocate of the Respondent No. 1 shows his substantive pay to be Rs.33,700/- per month. It needs to be mentioned here that admittedly the petitioner is a member of ICDS getting remuneration but the amount of such remuneration has been stated differently by both the parties.

Having plain regard to the prayer made by the petitioner and the objection raised by the respondents along with the DIR submitted by the protection officer this Court is inclined to pass an order of protection of the petitioner from physical and mental torture or any other torture in any form of domestic violence by the respondents. She is further granted a sum of Rs. 2000/- as monthly maintenance in form of monetary relief for herself .

Hence it is

ORDERED.

The prayer made by the petitioner is allowed on contest in part.

The respondents are restrained from repeating any act of domestic violence either physical or mental against the petitioner.

Respondent No. 1 is further directed to pay Rs.2000/- as monthly maintenance to the petitioner. This order is effective from the date of filing. The arrear maintenance of Rs.20,000/- (from October 2022 to July 2023) is to be paid by the Respondent No. 1 within 1 year(commencing from August 2023 to August 2024)

The respondent No. 1 is further directed to pay the monthly maintenance of Rs. 2000/-per month along with portion of arrear maintenance for the petitioner within 10th day of every month as interim maintenance allowance, failing which the petitioner will be at liberty to put the order in execution.

A copy of this Judgment be given to both the parties to this case, free of cost. A copy of this order be sent to the protection officer and to the officer in charge of police station within the local limits of whose jurisdiction the respondent resides. The I.C of the concerned PS is directed to see to it that no domestic violence may take place and provide all sort of assistance to the petitioner so as to get the instant order enforced.

To 13/09/2023 for evidence.

D/C
A.CJ.M. Jhargram

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